

## **INTERGOVERNMENTAL SERVICE AGREEMENT**

This Intergovernmental Service Agreement ("Agreement") is entered into by and between the Baldwin County Commission (hereinafter "County") and the Town of Summerdale, Alabama (hereinafter "Town"), as follows:

### **RECITALS**

**Whereas**, County is the duly formed governing body in and for Baldwin County, Alabama, and Town is an incorporated municipality of the State of Alabama; and

**Whereas**, County and Town are authorized under Alabama law to control, manage, supervise, regulate, repair, maintain, and improve (hereinafter collectively "control") certain public roads or rights-of-way inside their respective jurisdictions; and

**Whereas**, County and Town agree to pursue, in conjunction with the Alabama Department of Transportation (hereinafter "ALDOT"), the construction of a new traffic signal at the intersection of County Road 28 and State Route 59 (hereinafter "the Project"); and

**Whereas**, County and Town acknowledge and agree that County currently maintains County Road 28 within the Project limits, and ALDOT currently maintains SR 59 within the Project limits; and

**Whereas**, Town agrees to provide payment in the amount of \$75,000 to the County to assist with the cost of the Project; and

**Whereas**, County and Town wish to enter into this Agreement to provide for the construction and funding of the proposed Project; and

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained herein, the sufficiency of which being hereby acknowledged, County and Town do hereby agree as follows:

1. **Recitals**: The recitals set out above are incorporated into this Agreement, as though the same were set out in full in this paragraph.
2. **Purpose**: The parties acknowledge and agree that the purpose of this Agreement is to:
  - A. Establish the County's responsibility to prepare, or have prepared, construction plans for the Project, donate employee time and resources to let the Project out for public bid, coordinate utility relocations, and provide construction, engineering, and inspection (hereinafter "CE&I") for Project construction; and
  - B. Establish the Town's responsibility for providing payment in the amount of \$75,000 to the County to assist with the cost of the Project;

3. **County Remains Owner of Right-of-Way:** The County, at all times including during the effective term of this Agreement, shall retain exclusive responsibility for and control over County Road 28 within the Project limits. The County and Town obtain no additional rights, responsibilities or control for the subject road and rights-of-way as a result of the duties and/or obligations contained anywhere herein either during or following the effective term of this Agreement.

However, nothing in this Agreement shall preclude or inhibit the Town's future acceptance the above-mentioned roadways or traffic signal for maintenance through agreement, annexation, or other legal means.

4. **Maintenance:** Upon completion of the Project, the County shall retain exclusive responsibility for the cost of maintaining the new traffic signal. The terms of such maintenance shall be established with ALDOT through a separate agreement.
5. **No Joint Ownership of Property:** The parties acknowledge and agree that they will not jointly acquire, own, or otherwise come into joint or common possession of any property as a result of or in relation to this Agreement.
6. **Financing and Budgeting:** County and Town, respectively, shall be responsible for financing the obligations undertaken by that party hereunder and shall not be responsible for financing, or in any other manner contributing to, the actual costs or expenses of the obligations undertaken by the other party unless expressly identified herein.
7. **Approval and Effective Date:** This Agreement shall become effective upon the date of full execution by both parties ("Effective Date").
8. **Term:** The term of this Agreement shall be for twenty-four (24) months from its effective date. This document may be amended only upon written approval by the Parties hereto, and any such amendment shall be approved by the same method by which this original Agreement has been approved by the Parties.
9. **Services to be Performed by County**
  - A. Comply with all necessary local, State and Federal rules, regulations and laws applicable to this Agreement and the Surface Transportation funding requirements.
  - B. Provide input into the project design as required by ALDOT.
  - C. Donate in-kind employee time and services to prepare construction plans or have construction plans prepared, advertise the Project for public bid, award the Project to the lowest responsible and responsive bidder (hereinafter "Contractor"), and enter into a Construction Contract for the construction of the Project.

- D. Donate in-kind employee time and services to coordinate utility relocations for the Project and for the Utility relocations.
- E. Donate in-kind employee time and services to provide construction, engineering, and inspection (hereinafter "CE&I") for the Project.
- F. Make timely payments to utility companies and to the Contractor for completed work in accordance with utility relocation plans and the Construction Contract.
- G. Send an invoice to the Town in the amount \$75,000 to assist with the cost of the Project.
- H. Retain exclusive responsibility for the cost of maintaining the new traffic signal including entering into any required agreements with ALDOT.

10. **Services to be Performed by Town:**

- A. Upon receipt of an invoice from the County to assist with the Project costs, Town shall issue full payment in the amount of \$75,000 to the County within thirty (30) days of the invoice date.

11. **Termination and Notice:** Notwithstanding the foregoing, the County may terminate this Agreement, with reasonable cause, upon written notice to the Town. The County's said notice shall be deemed effective, and the Agreement deemed terminated, thirty (30) days after the date such notice is mailed by certified mail to the Town. In the event of termination by the County, the respective Parties shall be responsible for all actual costs incurred by that party in accordance with the terms of this agreement, through the date of receipt of the requisite termination notice. All notices provided for herein shall be sent as follows:

To Town:                      Town of Summerdale  
                                         502 W Lee Ave  
                                         Summerdale, AL 36580

To County:                      Baldwin County Commission  
                                         312 Courthouse Square, Suite 12  
                                         Bay Minette, Alabama 36507

12. **Indemnity:** Town accepts the improvement, work, property, product, funds and services of the County as a result of the Project in its "WHERE IS", "AS IS", condition and acknowledges that the County has made no representation or warranty to Town as to, and has no obligation for the condition of, the improvements, work, property, product, funds and services of the County. Town assumes the risk of any latent or patent defects or problems that are or may be contained in the improvements, work, property, product, funds and services of the County or Town. Town agrees that the County shall not be liable for any injury, loss or damage on account of any such

defects or problems. Town for itself and Town Representatives waive and release the County from any claims for injury to persons (other than County employees) or damage to the personal property by reason of the condition of the improvements, work, property, product, funds and services of the County or otherwise.

All guarantees, duties, representations, and assurances, without limitation, contained within Section 12 shall survive and exist beyond the date of termination or expiration of this Agreement, and time, or the lapse thereof, shall not be used for, or argued as a defense by, the Town against the same.

Nothing contained herein shall be construed to limit or modify the laws of Alabama as the same may apply to the County or Town related to any immunity, absolute or qualified, to which the County and Town are otherwise entitled by law.

13. **Entire Agreement:** This Agreement represents the entire and integrated agreement between County and Town and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the parties.
14. **Both Parties Contributed Equally to the Agreement:** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both County and Town have contributed substantially and materially to the preparation of this Agreement.
15. **Failure to Strictly Enforce Performance:** The failure of either party to insist upon the strict performance of any of the terms, covenants, agreements and conditions of this Agreement shall not constitute a default or be construed as a waiver or relinquishment of the right of a party to thereafter enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.
16. **Assignment:** Neither this Agreement nor any interest herein shall be assigned, transferred or otherwise encumbered without a prior written agreement providing for such assignment, transfer, or other encumbrance, signed by the parties.
17. **Choice of Law:** The parties acknowledge and agree that this Agreement shall in all respects be governed by the laws of the State of Alabama, including without limitation all issues relating to capacity, formation, interpretation, and available remedies, without regard to Alabama conflict of law principles.

IN WITNESS WHEREOF, the parties have executed this Agreement by and through their duly authorized representatives as of the date of full execution below.

**COUNTY:**  
BALDWIN COUNTY

**ATTEST:**

|                           |                      |
|---------------------------|----------------------|
| BY: _____ /               | _____ /              |
| Billie Jo Underwood /Date | Wayne Dyess / Date   |
| Chairman                  | County Administrator |

State of Alabama                    )  
County of Baldwin                 )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Billie Jo Underwood, as Chairman of the Baldwin County Commission, and Wayne Dyess, as County Administrator of the Baldwin County Commission, whose names are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Baldwin County Commission.

Given under my hand and official seal, this the \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**TOWN:**  
THE TOWN OF SUMMERDALE

**ATTEST:**

BY:  10/16/2019  10/16/19  
David Wilson /Date Tiffany Roberts /Date  
Mayor Town Clerk

State of Alabama )  
County of Baldwin )

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that, David Wilson, whose name as Mayor of the Town of Summerdale, and Tiffany Roberts, whose name as Town Clerk of the Town of Summerdale, are signed to the foregoing instrument and who are known to me, acknowledged before me on this day that, being informed of the contents of the Agreement, they, as such officers and with full authority, executed the same voluntarily for and as the act of said Town of Summerdale.

Given under my hand and official seal, this the 16 day of October, 2019.

  
Notary Public  
My Commission Expires: 12/18/2021